

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

JAMES HULCE on behalf of himself and others
similarly situated,

Case No.: 2020-CV-775

Plaintiff,

v.

LUSTRE-CAL CORPORATION,

Defendant.

**DEFENDANT’S CIVIL L.R. 7(H) EXPEDITED NON-DISPOSITIVE UNOPPOSED
MOTION TO CLARIFY AND/OR FOR AN EXTENSION OF TIME TO RESPOND TO
AMENDED COMPLAINT**

Defendant Lustre-Cal Corporation (“Lustre-Cal”) by and through undersigned counsel, hereby moves this Court to clarify the order from the hearing on May 18, 2021 and/or for the entry of an Order extending time for Lustre-Cal to file a responsive pleading to Plaintiff James Hulce's ("Plaintiff") Amended Complaint until after the Court has decided the question of whether the *Amerifactors* and *Ryerson* rulings are binding on this Court. In support of this Motion, Lustre-Cal states as follows:

1. The Court held a hearing on Defendant’s Motion to Dismiss on May 18, 2021. On that date, the Court denied in part Defendant’s Motion to Dismiss, but ordered that: Plaintiff file an Amended Complaint by June 4, 2021; the parties file simultaneous briefs on the question of whether the *Amerifactors* and *Ryerson* rulings are binding on this Court by June 24, 2021; and that by July 16, 2021, the parties file simultaneous response briefs to the opposing party’s position on whether the *Amerifactors* and *Ryerson* rulings are binding on the Court.

2. Plaintiff filed his Amended Complaint on May 21, 2021.
3. Under Fed. R. Civ. P. 15(a)(3), Lustre-Cal's responsive pleading deadline is June 4, 2021.

However, whether the Court wanted Lustre-Cal to file a responsive pleading before the briefing on the applicability of the *Amerifactors* and *Ryerson* rulings was not discussed at the hearing.
4. The Court's decision on the applicability of the *Amerifactors* and *Ryerson* rulings may render a response to Plaintiff's Amended Complaint unnecessary. Lustre-Cal therefore believes that it would be most efficient to respond to Plaintiff's Amended Complaint 14 days after the Court has issued a decision on the applicability of the *Amerifactors* and *Ryerson* rulings.
5. An extension until 14 days after the Court issues a decision on the applicability of the *Amerifactors* and *Ryerson* rulings will not prejudice any party at this early juncture.
6. Alternatively, Lustre-Cal respectfully asks for an extension of up to and including June 18, 2021 to file a response to Plaintiff's Amended Complaint.
7. On June 1, 2021, counsel for Lustre-Cal contacted Plaintiff's counsel to ask whether Lustre-Cal's Motion to Clarify and/or Extend the Responsive Pleading Deadline would be opposed, and on the same day, Plaintiff's counsel indicated there was no objection.

WHEREFORE, Defendant Lustre-Cal respectfully requests that this Court enter an order extending time for it to file a responsive pleading to Plaintiff's Amended Complaint until 14 days after the Court issues a decision on the applicability of the *Amerifactors* and *Ryerson* rulings.

Dated this 3rd day of June, 2021.

Electronically signed by Alyssa A. Johnson

Alyssa A. Johnson, State Bar No. 1086085

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